

SENATE

P.S. Res. No. 579

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Introduced by SEN. WIN GATCHALIAN

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**A RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RELEASE OF THE MALAMPAYA FUNDS BY THE DEPARTMENT OF BUDGET AND MANAGEMENT WITHOUT COMPLETE DOCUMENTARY REQUIREMENTS IN VIOLATION OF EXISTING LAWS AND RULES AND REGULATIONS AS SPECIFIED IN THE COMMISSION ON AUDIT'S SPECIAL REPORT NO. 2017-04**

**WHEREAS**, Presidential Decree No. 910 created a Special Fund from all fees, revenue, and receipts from any and all sources as well as the government share representing royalties, rentals, and production share on service contracts and similar payments on the exploration, development, and exploitation of energy sources;<sup>1</sup>

**WHEREAS**, the Special Fund, also known as Special Account in the General Fund (SAGF) 151, collected by the Department of Energy (DOE) and thereafter remitted to and managed by the Bureau of Treasury, shall be used to finance energy resource development and exploitation programs;<sup>2</sup>

**WHEREAS**, DOE records show the total remittance to the government from Service Contract (SC) 38 or the Camago-Malampaya Reservoir to SAGF 151 amounts to Php 173.280 billion for operating dates starting January 2002 until 30 June 2013;

**WHEREAS**, the Department of Budget and Management (DBM) was authorized in 2007 to release the funds collected from SC 38, otherwise known as the Malampaya Funds, to implementing agencies upon the endorsement and submission by the DOE or the Philippine National Oil Corporation Exploration Corporation of documents that include but are not limited to a directive by the Office of the President or written request for funding of designated projects from the province of Palawan, the Palawan congressional districts, or Puerto Princesa City;<sup>3</sup>

**WHEREAS**, DBM, DOE, and the Department of Finance, in their implementing guidelines for the release of funds chargeable against the Malampaya Funds, stated that all requests for funding be submitted to DOE who is thereafter charged to evaluate the request and submit the evaluation with supporting documents to DBM;<sup>4</sup>

<sup>1</sup> Section 8, Presidential Decree (P.D.) No. 910 (1976).

<sup>2</sup> Belgica et. al. vs. Ochoa, et. al., G.R. Nos. 208566, 19 November 2013.

<sup>3</sup> Sec. 1, Executive Order No. 683 (2007).

<sup>4</sup> DBM-DOE-DOF Joint Circular No.3, 30 January 2008.



**WHEREAS**, Php 38.807 billion from the Malampaya Funds had been released as of 21 May 2012 by DBM to various non-government agencies, government-owned and controlled corporations and the provincial government of Palawan, to wit:

<b>Agency</b>	<b>Total Releases (in millions)</b>
Department of Finance – Bureau of Treasury	Php 9,946.017
Department of Public Works and Highways	7,599.807
Department of National Defense – Armed Force of the Philippines	7,456.353
Department of Agriculture	5,824.000
Department of Interior and Local Government – Philippine National Police	2,140.000
Department of Budget and Management	2,114.000
Department of Energy	1,910.000
Department of Agrarian Reform	900.000
Department of Health	745.926
Department of Interior and Local Government	150.000
Department of Transportation and Communication – Philippine Coast Guard	50.000
Department of Science and Technology – Philippine Atmospheric, Geophysical and Astronomical Services Administration	0.4000
<b>Total</b>	<b>Php 38,836.503</b>
Less: Refund	29.627
<b>Total Releases Net of Refund</b>	<b>Php 38,806.876</b>

**WHEREAS**, the Commission on Audit (COA) conducted a sectoral performance audit on all of DBM’s Malampaya Fund releases to determine the agency’s compliance with existing laws and rules and regulations on the issuance of Special Allotment Release Orders (SAROs) and Notices of Cash Allocation (NCAs);

**WHEREAS**, COA’s audit contained in Report No. 2017-04 shows three main findings: *first*, “SAROs and NCAs were released even without complying with complete documentary requirements; *second*, “there were either no request for fund from the implementing agencies, or DOE endorsement and/or Special Budget, or proof of DBM evaluation, or approval by the President”; *third and last*, “funds were released even in the absence of project proposals or for the purposes other than the purpose for which the fund was approved by the President”;<sup>5</sup>

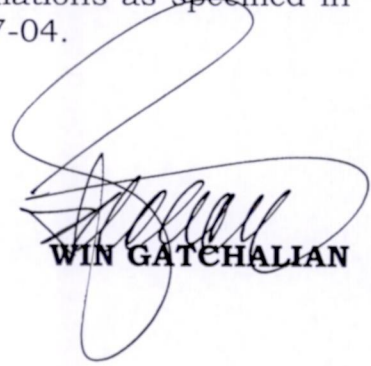
**WHEREAS**, in light of these findings, it is imperative that responsible officers and employees be identified and be held accountable for their failure to comply with laws and rules and regulations in the release of these public funds;

**NOW THEREFORE BE IT RESOLVED**, as it is hereby resolved, to direct the appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the release of the Malampaya Funds by the Department of Budget and Management without complete documentary requirements in violation of Presidential Decree No. 910 Series of 1976, Executive Order

<sup>5</sup> Commission on Audit Report No. 2017-04, “Malampaya Fund Department of Budget and Management 2004 to 2012 Fund Releases” p. 5.

No. 683 Series of 2007, DBM-DOE-DOF Joint Circular No. 3 Series of 2008, and other relevant laws and rules and regulations as specified in the Commission on Audit's Special Report No. 2017-04.

Adopted,



**WIN GATCHALIAN**